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TOR: 010639Z JUL 76

R 010025Z JUL 76

FM AMEMBASSY JAKARTA

TO RUEHC/SECSTATE WASHDC 5387

INFO RUMJKL/AMEMBASSY KUALA LUMPUR 4212

RUMJMA/AMEMBASSY MANILA 6431

BT

C O N F I D E N T I A L JAKARTA 8642

FROM OXMAN

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS: ARCHIPELAGOS (PHILIPPINES)

1. SUMMARY: NO CHANGE IN PHILIPPINE POSITION ON ARCHIPELAGOS APPARENT, END SUMMARY.

2. DEPT ASST LEGAL ADVISER AND LOS REP OXMAN AND RADM MAX MORRIS MET WITH PHILIPPINE ATTY GEN MENDOZA JUNE 29. MENDOZA INDICATED THAT GOP HAD LEGAL PROBLEMS IN RECONCILING LOS ARTICLES (RSNT) ON ARCHIPELAGOS WITH ITS CONSTITUTION, AND ALSO WAS NOT SURE TYPE OF ARCHIPELAGO OUTLINED IN RSNT GAVE PHILIPPINES ANY BENEFIT.

3. MENDOZA CONTRASTED PHILIPPINE SITUATION WITH INDONESIAN, NOTING THAT INDONESIANS FELT THAT SINCE THEIR ARCHIPELAGO SEPARATED INDIAN OCEAN FROM SOUTH CHINA SEA, THEY HAD TO TAKE A LIBERAL ATTITUDE ON PASSAGE. PHILIPPINE GEOGRAPHIC SITUATION DIFFERENT, MOREOVER, PRACTICAL EFFECT OF ARTICLES ON ARCHIPELAGIC PASSAGE WAS "WORSE" THAN NO ARCHIPELAGO, MENDOZA REACHES THIS CONCLUSION ON GROUNDS THAT WITHOUT AN ARCHIPELAGO, ROUTES ACROSS PHILIPPINES WOULD NOT RPT NOT BE STRAITS CONNECTING TWO PARTS OF HIGH SEAS, SINCE ONE STRAIT MERLY CONNECTED TO ANOTHER STRAIT, NOT THE HIGH SEAS, WE NOTED DISAGREEMENT SINCE ROUTE AS A WHOLE NECESSARILY CONNECTS TWO PARTS OF HIGH SEAS, WHICH IS BASIC JURIDICAL TEST. WE POINTED OUT THAT PHILIPPINES ASIDE, NO STATE WITH AN INTEREST IN NAVIGATING THROUGH THE AEGEAN COULD CONCEIVABLY AGREE WITH PHILIPPINE INTERPRETATION. WE THEN NOTED ADVANTAGE TO PHILIPPINES OF ARCHIPELAGO ARTICLES: UNITY OF ISLAND GROUP; ONLY 80 PER CENT OF NARROW STRAITS CAN BE USED (UNDER STRAITS ARTICLE, 100 PER CENT COULD BE USED); PASSAGE CAN BE LIMITED TO LANES; THERE IS SPECIFIC WORDING PERMITTING NON-DUPLICATION OF ESSENTIALLY SIMILAR ROUTE BETWEEN SOME ENTRY AND EXIT POINTS, THUS IN EFFECT PERMITTING GOP TO ROUTE

Philippines

NY Summer Session

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TRAFFIC TO ONE OR ANOTHER SIDE OF INTERNAL ISLANDS,
 4. WITHOUT SPECIFICALLY LINKING SUBJECTS, MENDOZA REFERRED
 TO BASE NEGOTIATIONS, AND INDICATED THAT HE EXPECTED THEM
 TO CONTINUE FOR QUITE SOME TIME.
 5. NEITHER WE NOR MENDOZA RAISED QUESTION OF HOLDING A
 FURTHER LOS CONFERENCE SESSION IN MANILA IN EARLY 1977,
 HOWEVER, THIRD STATES ARE RAISING QUESTIONS WITH OXMAN
 ABOUT THIS IN CORRIDORS AT KUALA LUMPUR AALCC MEETING,
 RESPONDED BY NOTING SECRETARY KISSINGER'S CALL FOR COMPLE-
 TION OF SUBSTANTIVE NEGOTIATIONS IN 1976,
 RIVES